

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA for the use of
WALTHAM LIME & CEMENT COMPANY,
Plaintiff,

v.

Civil Action No. 1:05-cv-10138 NG

PEABODY CONSTRUCTION CO., INC.,
ODF CONTRACTING CO., INC.,
HOON COMPANIES, INC. and
TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA,
Defendants.

**ASSENTED-TO MOTION REQUESTING EXTENSION OF TIME
TO RESPOND TO MOTION TO DISMISS OF
TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA**

Plaintiff Waltham Lime & Cement Company ("Waltham Lime") hereby moves this Court for an extension of time, through and including September 7, 2005, to file its response to the Motion to Dismiss of Travelers Casualty and Surety Company of America ("Motion to Dismiss") in the above-captioned proceeding. In support of this motion, Waltham Lime state as follows:

1. Waltham Lime filed its Complaint in this matter on January 21, 2005.
2. After numerous extensions, Travelers Casualty and Surety Company of America ("Travelers") by way of response to the Complaint filed its Motion To Dismiss on the basis of the statute of limitations on July 13, 2005.
3. This is the second request for an extension of time to respond to the Motion To Dismiss.
4. Waltham Lime states that its counsel has not been able to complete the opposition because of other professional and personal commitments, and requires limited additional time to

complete and file an opposition. Waltham Lime does not seek to delay the proceedings, but rather simply requires a brief extension to complete the opposition papers.

5. Counsel for Defendants Travelers has assented to the relief requested herein.

WHEREFORE, Waltham Lime respectfully request that this Honorable Court to grant Waltham Lime an extension of time, through and including September 7, 2005, to file its response to the Motion To Dismiss of Defendant Travelers Casualty And Surety Company Of America.

Respectfully Submitted,

WALTHAM LIME & CEMENT COMPANY

By their attorneys,

/s/ David B. Hobbie

Anthony M. Moccia, BBO #350225
David B. Hobbie, BBO #637107
ECKERT SEAMANS CHERIN & MELLOTT,
LLC
One International Place, 18th Floor
Boston, Massachusetts 02110
Telephone: (617) 342-6800
Facsimile: (617) 342-6899

August 11, 2005

Assented to by:

**TRAVELERS CASUALTY & SURETY
COMPANY OF AMERICA**

By its attorneys,

/s/ Jonathan C. Burwood

Bradford R. Carver, BBO #565396
Jonathan C. Burwood, BBO #643674
Cetrulo & Capone LLP
Two Seaport Lane, 10th Floor
Boston, MA 02110
(617) 217-5500

Date: August 11, 2005